

Message Text

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ACTION L-03

INFO OCT-01 IO-13 ISO-00 DLOS-06 /023 W

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P 301928Z AUG 76

FM USMISSION USUN NY

TO SECSTATE WASHDC PRIORITY 8920

LIMITED OFFICIAL USE USUN 3498

FOR L

FROM US DEL LOS

E.O. 11652: NA

TAGS: PLOS

SUBJECT: LOS: LETTER FROM H. GARY KNIGHT

1) AMB. LEARSON HAS RECEIVED LETTER FROM H. GARY KNIGHT, PROFESSOR OF MARINE RESOURCES LAW AT LSU, AS FOLLOWS:
QTE: THANK YOU VERY MUCH FOR YOUR LETTER OF JULY 22 REGARDING MY MEMORANDUM ON THE SUBJECT OF U.S. SIGNATURE OF AN LOS CONVENTION. I WAS VERY INTERESTED IN YOUR STATEMENT THAT THE LEGAL ADVISER'S OFFICE ADVISED YOU THAT, CONTRARY TO THE CONCLUSION WHICH I REACHED, SIGNATURE OF AN LOS TREATY WOULD NOT CARRY ANY LEGAL IMPLICATIONS.

WOULD IT BE POSSIBLE FOR YOU TO SEND ME A COPY OF THE MEMORANDUM PREPARED BY THE LEGAL ADVISER'S OFFICE IN SUPPORT OF THEIR PROPOSITION SO THAT I MIGHT HAVE THE BENEFIT OF THEIR THINKING ON THIS TOPIC? I MAKE THIS REQUEST BECAUSE IT SEEMED TO ME THAT THE LAW WAS QUITE CLEAR AND UNAMBIGUOUS ON THE POINT. ENDQTE.

2) WE DO NOT KNOW WHETHER KNIGHT IS AWARE THAT A MEMORANDUM EXISTS. WE RECOMMEND THAT AMB. LEARSON ANSWER THE LETTER AS FOLLOWS: QTE: THANK YOU FOR YOUR LETTER OF AUGUST 16 ON THE QUESTION OF THE LEGAL EFFECT OF SIGNATURE OF A LAW OF THE SEA CONVENTION. WE ARE
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NOT ABLE TO COMPLY WITH YOUR REQUEST FOR A LEGAL MEMORANDUM

ON THE SUBJECT, UNQTE.

3) WE SEE NO REASON TO PROVIDE MEMORANDUM IN QUESTION FROM STANDPOINT OF LOS CONCERNS. FREEDOM OF INFORMATION ACT WOULD NOT SEEM TO REQUIRE THIS. SUPPLYING LEGAL MEMOS TO PROFESSORS EVERY TIME WE TAKE A LEGAL POSITION WOULD SEEM TO BE A BAD IDEA. WE SEE POSSIBLE DISADVANTAGE IN THAT PROFESSOR KNIGHT IS LIKELY TO BRING EXTENSIVE CRITIQUE OF THAT LEGAL ADVICE TO HOSTILE CONGRESSMEN, BASED ON EARLIER CORRESPONDENCE. THE SHORT MEMORANDUM PREPARED BY L FOR AMB. LEARSON AT HIS REQUEST WAS NOT INTENDED FOR AN ADVERSARY PROCESS OR PUBLIC SCRUTINY. MOREOVER, A CONGRESSIONAL-EXECUTIVE DISPUTE OVER THE POWER TO SIGN A TREATY, WHICH COULD RESULT IF THE HILL PICKS UP KNIGHT'S CRITIQUE, COULD IMPAIR RATIFICATION PROSPECTS FOR THE VIENNA CONVENTION OF THE LAW OF TREATIES AND ADD UNNECESSARILY TO AN ALREADY DIFFICULT SITUATION REGARDING THE FOREIGN POLICY RESPONSIBILITIES OF THE PRESIDENT. WHILE A CONGRESSMAN OR SENATOR MAY SUBSEQUENTLY REQUEST THAT MEMORANDUM OR AN ANALYSIS OF THE ISSUE, WE WOULD PREFER TO RESPOND TO THAT REQUEST AS APPROPRIATE, SHOULD IT BE FORTHCOMING. ACCORDINGLY, UNLESS DEPT. PERCEIVES OBJECTION, WE PROPOSE TO RESPOND AS IN PARAGRAPH 2.

4) REQUEST DEPT'S GUIDANCE ASAP.
SHERER

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Disposition Authority: KelleyW0
Disposition Case Number: n/a
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Margaret P. Grafeld
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